

THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
NORTHERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
V.)	2:11-CR-00024-FL-1
)	
GARY FLANNELLY,)	
)	
Defendant.)	
)	

ARRAIGNMENT
SEPTEMBER 12, 2011
BEFORE THE HONORABLE DAVID W. DANIEL
U.S. MAGISTRATE JUDGE

APPEARANCES:

For the Government:

Eric D. Goulian, Esquire
United States Attorney's Office
310 New Bern Avenue, Suite 800
Raleigh, North Carolina 27601
919.856.4530

For the Defendant:

Richard S. Glaser, Jr., Esquire
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Court Reporter: Rebecca L. Capps

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P R O C E E D I N G S

1:38 P.M.

1 THE COURT: All right, good afternoon,
2 Ladies and Gentlemen. My name is Magistrate Judge
3 David Daniel. We're here today in Greenville in the
4 United States District Court for the Eastern District
5 of North Carolina for the purpose of holding
6 arraignments in felony criminal cases assigned to Chief
7 Judge Flanagan.
8

9 Now, at this time, Madam Clerk, if you would
10 be so kind as to call the calendar, and I would ask
11 counsel to advise me if you're ready to proceed, and if
12 your client needs the services of an interpreter to
13 fully and fairly participate in these proceedings.

14 (Clerk calls cases to be heard and counsel
15 respond.)

16 THE COURT: All right, at this time, Madam
17 Clerk, if you would swear in Miss Cruz as the Court's
18 official interpreter.

19 (Whereupon, SOFIA CRUZ was duly sworn to
20 fully and accurately interpret the proceedings.)

21 THE COURT: Thank you, Ms. Cruz. Mr.
22 Guzman, Mr. Gonzalez, Mr. Guerrero, can you understand
23 what I'm saying with the assistance of Ms. Cruz, the
24 Court's official interpreter?

25 MR. GUZMAN: Yes.

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1 MR. GONZALEZ: Yes.

2 MR. GUERRERO: Yes.

3 THE COURT: Very good. All right,
4 Gentlemen, you are here today in this United States
5 District Court because either a Bill of Indictment has
6 been returned against you by the citizens of this
7 district sitting on the Grand Jury or, in your case,
8 Mr. Flannelly, the United States Attorney has filed a
9 Criminal Information against you, but in any event,
10 each of you have been charged with violation of one or
11 more federal felony criminal laws. Now, you have
12 certain rights as relate to those felony charges
13 against you, and I am going to explain those to you
14 now.

15 As you were told at your initial appearance,
16 you have the right to silence, which means that no one
17 can force you to answer any questions or make any
18 statements concerning the serious felony charges you now
19 face. You have the right to be represented by an
20 attorney. And you have either hired your own attorney,
21 or the Court has appointed an attorney to provide you
22 with an aggressive, thorough, and competent defense to
23 the serious charges you now face.

24 Because each of you are facing serious felony
25 charges, you have the right to a trial by jury on those

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1 charges, and at that jury trial, you are presumed to be
2 innocent. There is absolutely no burden on you to prove
3 anything. The burden is upon the Government, through
4 its attorneys and agents, and the Government is required
5 to prove you guilty by competent evidence, and most
6 importantly, the Government is required to prove you
7 guilty beyond a reasonable doubt.

8 The method for the Government to attempt to
9 prove you guilty beyond a reasonable doubt is to call
10 their agents and other witnesses to the witness stand,
11 who would have to testify against you at your trials, in
12 open court, and under oath. And after the Government
13 questions its witnesses, you, through your attorney,
14 will have the absolute right to question, or as we say,
15 cross-examine, anyone that testifies against you.

16 Now, Gentlemen, if you plead not guilty this
17 afternoon and your case goes to trial, you too will have
18 the option of taking the witness stand and testifying
19 under oath at your trial, but only if you wish to do
20 that. It's very important that you understand that no
21 one can force you to testify in your cases if you don't
22 want to. And if you elect not to testify and to
23 exercise your constitutional right not to testify, that
24 fact cannot be held against you, and Chief Judge
25 Flanagan is required by law to instruct the jury

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1 accordingly.

2 Gentlemen, you have the right to use the
3 subpoena power of this United States District Court,
4 which is a power that can force witnesses that might be
5 favorable to you in your defense to come to court and
6 testify under oath on your behalf at your trial.

7 Now, Gentlemen, if you plead guilty to an
8 offense this afternoon, whether it's in a Bill of
9 Indictment or a Criminal Information, you'll have to
10 waive your right to trial by jury and the other rights I
11 have just mentioned, other than your right to counsel.
12 Specifically, you will have to waive the right not to
13 incriminate yourself, because I cannot accept your plea
14 of guilty to any offense or offenses unless you admit in
15 open court this afternoon your guilt as to that offense
16 or offenses.

17 Now, by pleading guilty to a felony offense or
18 if you're convicted by a jury and adjudicated guilty of
19 a felony offense, you will lose certain valuable civil
20 rights, such as the right to ever possess any kind of
21 firearm, the right to hold public office, the right to
22 serve on a jury; most importantly, you will lose the
23 right to vote.

24 If you plead guilty this afternoon or if you
25 are subsequently found guilty at trial, you may be

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1 ordered to make restitution in money or services to the
2 victims of your crime if they're identifiable, and if
3 your offense involves fraud, you may be required to
4 provide notice of your conviction to the victims of your
5 crime. In certain cases you may be required to forfeit
6 property to the United States Government.

7 Now, if you are not a citizen of the United
8 States, you need to know and understand that if you
9 plead guilty to a felony offense, or if you're
10 subsequently found guilty at trial of a felony offense,
11 that your immigration status will likely be adversely
12 affected.

13 Now, as required by law, a special assessment
14 of \$100.00 for each felony offense or count to which you
15 plead guilty must be imposed against you. This \$100.00
16 special assessment per count or charge is in addition to
17 or on top of any other fine or punishment that Chief
18 Judge Flanagan might impose.

19 Now, Gentlemen, if you plead guilty this
20 afternoon or if you're found guilty at trial and you are
21 sentenced to an active term of incarceration or
22 imprisonment, it's virtually certain that you will be
23 given a term of supervised release to follow that term
24 of imprisonment. Now, supervised release is similar to
25 what you may think of as probation, and it requires that

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1 you report to an assigned United States probation
2 officer from time to time, and that you comply with the
3 instructions given to you by that United States
4 probation officer, which instructions have been given to
5 him or her by Chief Judge Flanagan.

6 The terms of your supervised release would
7 generally range anywhere from one year up to ten years,
8 although there are certain categories or classes of
9 cases which entail up to lifetime of supervised release.
10 In any event, the length of your supervised release
11 would be determined by the nature of your offense or
12 offenses, as well as your individual criminal histories.

13 Now, Gentlemen, the United States Sentencing
14 Commission has established advisory sentencing guideline
15 ranges for all federal crimes. But by virtue of the
16 Supreme Court case of United States versus Booker, Chief
17 Judge Flanagan is no longer required to specifically
18 follow those advisory guideline ranges when imposing
19 sentence. She is, however, required to calculate the
20 applicable advisory guideline sentencing range for your
21 offense or offenses. She is then free to consider that
22 applicable advisory guideline range as well as any other
23 relevant factors set forth in the sentencing statute
24 before she imposes sentence.

25 Although the Chief Judge is permitted to

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1 impose a sentence which is outside of the advisory
2 sentencing guideline range, if she does so, she is
3 required to explain on the record at the time of
4 sentencing her reasons or rationale for imposing such a
5 sentence.

6 Gentlemen, this is very important. Under some
7 circumstances, you and/or the Government may have the
8 right to appeal your sentence even though you have pled
9 guilty to an underlying crime or offense. However, if
10 you have entered into a plea agreement with the
11 Government, and that plea agreement contains an appeal
12 waiver, which virtually all plea agreements do, you need
13 to know and you need to understand that that appeal
14 waiver may be binding upon you and that your ability to
15 appeal whatever sentence is imposed by the Chief Judge
16 will be severely restricted.

17 Gentlemen, parole has been abolished in the
18 United States Court System, so if you receive a sentence
19 which includes any active term of incarceration, you
20 will not be eligible for nor will you receive any
21 parole.

22 Now, Gentlemen, if you plead guilty this
23 afternoon, or if you are found guilty at trial, the
24 United States Probation Office will prepare a written
25 pre-sentence report to assist the Chief Judge in your

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1 sentencing. You will be interviewed by the Probation
2 Office to obtain information for the pre-sentence
3 report. It is very important that you have your
4 attorney present with you during all interviews or
5 contact with the Probation Office. After the Probation
6 Office has prepared the pre-sentence report, you and
7 your attorney will be given a copy of the pre-sentence
8 report and be given ample opportunity to review the
9 report and to object to any aspects of the report that
10 you and your attorney believe are inaccurate or
11 improper.

12 Now, at the time of sentencing, you and your
13 attorney will be given the opportunity to speak to the
14 Chief Judge and to argue for a sentence that you and
15 your attorney believe is appropriate under the
16 sentencing statute. You need to know that Chief Judge
17 Flanagan does not allow character witnesses to testify
18 at her sentencing hearings, but she is happy to receive
19 from your attorney written sentencing memoranda and
20 character letters, as long as those are provided to her
21 chambers at least one week prior to your scheduled
22 sentencing.

23 Now, sentencings from this afternoon's
24 arraignments will be held no sooner than ninety days
25 from today's date, and will likely be held in New Bern,

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1 in front of the Chief Judge.

2 All right, that concludes my brief explanation
3 of your rights.

4 Mr. Marshal, if you would rearrange the
5 courtroom, we will start with Mr. Glaser's client, Mr.
6 Flannelly.

7 All right, Mr. Glaser, are you prepared to
8 proceed on behalf of Mr. Flannelly?

9 MR. GLASER: That is correct.

10 THE COURT: Is that the correct
11 pronunciation of your client's last name?

12 MR. GLASER: Flannelly, yes, sir.

13 THE COURT: Flannelly. Very good. All
14 right, Mr. Gouljian, is the United States prepared to
15 proceed?

16 MR. GOULJIAN: Yes, your Honor.

17 THE COURT: All right.

18 Ms. Tripp, if you would call the Flannelly
19 case for arraignment on Criminal Information and swear
20 or affirm Mr. Flannelly.

21 (Clerk calls case to be heard.)

22 (Whereupon, **GARY FLANNELLY** was duly sworn and
23 testified as follows:)

24 E X A M I N A T I O N

1:55 P.M.

25 BY THE COURT:

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1 Q All right, if you would remain standing, Mr.
2 Glaser. If you would stand, Mr. Flannelly, as is the
3 custom of this Court.

4 All right, Mr. Flannelly, my name is
5 Magistrate Judge David Daniel. We're here today for
6 your arraignment on a Criminal Information charging you
7 with a serious felony charge.

8 As an initial matter, I have in my hands a
9 document, Consent to Proceed Before United States
10 Magistrate Judge for the purpose of conducting your
11 arraignment and taking your plea. Is that your knowing
12 and voluntary consent to have me conduct these
13 proceedings?

14 A Yes, your Honor.

15 Q Very good. Mr. Flannelly, what is your full
16 name, please?

17 A Gerard, G-E-R-A-R-D, Thomas Flannelly.

18 Q And, Mr. Flannelly, in what town or city do
19 you live?

20 A Washington, North Carolina.

21 Q And how old are you, sir?

22 A Fifty-four.

23 Q And what is the extent of your education?

24 A College courses.

25 Q Very good. Have you ever been treated for

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1 mental illness or substance abuse issues?

2 A No, your Honor.

3 Q In the past twenty-four hours, have you had
4 any alcohol, prescription medication of any kind, drugs
5 of any kind, legal or illegal?

6 A No, your Honor.

7 Q Do you feel dizzy, lightheaded, or confused?

8 A No, sir. No, your Honor.

9 Q Do you feel like you understand what is
10 happening in court today?

11 A Absolutely, your Honor.

12 Q Very good.

13 THE COURT: Mr. Glaser, have you had any
14 difficulty in communicating with Mr. Flannelly or any
15 reason to doubt his mental competency?

16 MS. GLASER: No, sir.

17 THE COURT: Mr. Goulian, does the United
18 States have any reason to doubt Mr. Flannelly's
19 competency?

20 MR. GOULIAN: No, your Honor.

21 THE COURT: Let the record reflect the
22 Court finds as a fact that the Defendant, Gary
23 Flannelly, is competent to appear, to understand the
24 nature of these charges, and to ultimately enter a plea
25 in these matters.

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1 BY THE COURT:

2 Q Now, Mr. Flannelly, have you had the
3 opportunity to discuss your case and your plea with Mr.
4 Glaser, your attorney?

5 A Yes, your Honor.

6 Q Are you -- has Mr. Glaser answered all of your
7 questions concerning your case and your plea?

8 A Yes, your Honor.

9 Q Are you satisfied with his representation of
10 you?

11 A Absolutely, your Honor.

12 Q Very good. Did you hear and understand my
13 explanation of your rights this afternoon, including how
14 you might be sentenced by the Chief Judge?

15 A Yes, your Honor.

16 Q Mr. Flannelly, you're here on a Criminal
17 Information, and that Criminal Information is rather
18 brief, so I am going to read that out loud. The United
19 States has filed a Criminal Information against you,
20 dated June 7 of 2011, charging that on or about June 8
21 of 2005, June 20, 2005, August 16, 2005, here in the
22 Eastern District of North Carolina, that you, Mr.
23 Flannelly, did knowingly make false statements with
24 respect to information required by Chapter 44 of Title
25 18, to be kept in the records of a federally licensed

1 firearms dealer, specifically, false statements as to
2 the ownership of two Glock 19 handguns and one Glock 17
3 handgun, which would be a violation of Title 18, United
4 States Code Section 924(a)(1)(A). Do you understand that
5 charge against you in the Criminal Information?

6 A Yes, I do, your Honor.

7 Q Now, the maximum statutory punishment you
8 might receive were you to plead guilty or be found
9 guilty of that charge would be up to five years'
10 imprisonment; up to a \$250,000.00 fine, or both such
11 fine and imprisonment; up to three years of supervised
12 release to follow any imprisonment, with the possibility
13 of up to two additional years' imprisonment if your
14 supervised release were to be revoked; the required
15 \$100.00 special assessment; and restitution to the
16 extent restitution is deemed applicable. Do you
17 understand those maximum statutory punishments that you
18 might receive?

19 A Yes, your Honor.

20 Q Now, Mr. Flannelly, the charges pending
21 against you have been brought by the filing of a
22 Criminal Information by the United States Attorney, and
23 because you have been charged with a felony in that
24 Criminal Information, you have a constitutional right to
25 require that the Government obtain a true Bill of

1 Indictment against you from the Grand Jury of this
2 district. Now, you can waive that right to Indictment
3 by the Grand Jury and consent to proceeding forward
4 based on a Criminal Information of the United States
5 Attorney, if you so desire.

6 Mr. Flannelly, this is very important. If you
7 do not waive your constitutional right to Indictment,
8 then the proceeding against you today can go no further.
9 In fact, based on my understanding of the posture of
10 this case, you're free to walk out the door. But in
11 that event, the Government would, likewise, be free to
12 present its case to the Grand Jury and seek to have the
13 Grand Jury return a true Bill of Indictment against you.

14 Now, the Grand Jury is composed of at least
15 sixteen, but not more than twenty-three persons, and at
16 least twelve of those grand jurors, were they presented
17 with your case, would have to find probable cause and
18 believe that you committed the offense with which you're
19 charged before they could return a true Bill of
20 Indictment.

21 Now, Mr. Flannelly, if the Government was
22 forced to present its case to the Grand Jury, the Grand
23 Jury might, or it might not, return a true Bill of
24 Indictment against you. No one can say for sure what
25 the Grand Jury would do were they presented with your

1 case. But I can say for sure that if you waive your
2 right to Indictment by the Grand Jury, that the case
3 will proceed against you on the United States Attorney's
4 Criminal Information just as if you had been indicted.

5 Now, Mr. Flannelly, have you discussed waiving
6 your right to Indictment by the Grand Jury with Mr.
7 Glaser, your attorney?

8 A I have, your Honor.

9 Q And you understand that you have that
10 constitutional right to require that the Government
11 obtain a true Bill of Indictment? Do you understand
12 that?

13 A I do, your Honor.

14 Q Has anyone threatened you or made any promises
15 to you to get you to waive that constitutional right of
16 Indictment?

17 A No, your Honor.

18 Q Mr. Flannelly, do you wish to waive your right
19 to Indictment by the Grand Jury?

20 A Yes, your Honor.

21 THE COURT: Mr. Glaser, are you aware of
22 any reason why Mr. Flannelly should not waive his right
23 to indictment by the Grand Jury?

24 MR. GLASER: I am not, your Honor. I would
25 like to add, and Mr. Gouljian and I discussed this, the

1 -- if one reads the timing in the information of the
2 particular offense, the statute of limitations is
3 actually run, as well, but we are waiving that, as well,
4 today, in addition to waiving the right to -- for
5 indictment.

6 THE COURT: All right, thank you.

7 MR. GLASER: Yes, sir.

8 BY THE COURT:

9 Q All right. Now, Mr. Flannelly, I have in my
10 hands a document entitled, Waiver of Indictment, that
11 appears to be signed by you, Mr. Glaser -- and Mr.
12 Glaser, your attorney, dated today's date. Is that your
13 knowing and voluntary decision, to waive your
14 constitutional right to indictment?

15 A Yes, your Honor.

16 Q All right. The Court finds that your Waiver
17 of Indictment is knowingly and voluntarily made and will
18 accept the same, and will proceed on to arraignment
19 based on a Criminal Information.

20 Now, Mr. Flannelly, would you like for me to
21 read the charge against -- against you, again, or do you
22 understand the charge?

23 A I understand, your Honor.

24 Q And you understand the maximum punishments
25 that you might receive, as I previously stated?

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1 A I do, your Honor.

2 Q All right. I've been handed a document
3 entitled, Memorandum of Plea Agreement, Mr. Glaser.
4 This plea agreement appears to be dated the 5th day of
5 February, 2010; signed by you, Mr. Glaser, your
6 attorney, and John Bowler, the Assistant U.S. Attorney
7 handling your case. And in that plea agreement, among
8 other things, it appears you've agreed to plead guilty
9 to that one count Criminal Information.

10 I ask you, Mr. Flannelly, did you have the
11 opportunity to thoroughly read and review this plea
12 agreement with Mr. Glaser, your attorney, before you
13 signed it?

14 A I did, your Honor.

15 Q After you read and reviewed the plea agreement
16 with Mr. Glaser, did you, or do you today, understand
17 the terms, language, words, and meaning of everything in
18 this plea agreement?

19 A Yes, your Honor.

20 Q Do you understand your obligations under the
21 plea agreement?

22 A I do, your Honor.

23 Q Very good. Has anyone promised you anything
24 to get you to plead guilty to the Criminal Information,
25 that is not written down in this plea agreement?

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1 A No, your Honor.

2 Q Has anyone threatened you or tried to force
3 you in any way to get you to plead guilty to the
4 Criminal Information?

5 A No, your Honor.

6 Q And do you understand that if you plead guilty
7 to the charge against you in the Criminal Information,
8 that that charge is a felony, and that you will lose
9 your valuable civil rights, including the right to vote.
10 Do you understand that?

11 A Yes, your Honor.

12 Q Very importantly, do you understand that if
13 you plead guilty today, that you can't come back later
14 and ask, one, to be indicted; two, to plead not guilty;
15 or three, for a trial? Do you understand that?

16 A I understand, your Honor.

17 Q You're stuck with your "guilty" plea? Did you
18 discuss with Mr. Glaser, and do you understand that
19 Paragraph 2(c), on the bottom of the first page, is the
20 appeal waiver that I discussed during the advice of
21 rights, which makes it very difficult for you to appeal
22 whatever sentence is imposed by the Chief Judge? Did
23 you discuss that with Mr. Glaser?

24 A Yes, your Honor, I understand.

25 Q And you understand that? Did you discuss with

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1 Mr. Glaser, and do you understand that any sentencing
2 recommendations in the plea agreement, including those
3 in paragraph 5, on pages 5 and 6, are just that,
4 recommendations, and that Chief Judge Flanagan is free
5 to establish whatever advisory guideline range she
6 believes to be correct and to impose whatever sentence
7 she believes to be just and proper, irrespective of any
8 agreement you have the United States Attorney? In other
9 words, she's not bound by those recommendations of the
10 plea agreement. Do you understand that?

11 A I understand, your Honor.

12 Q Have you answered all of my questions
13 truthfully, Mr. Fletcher (sic)?

14 A Yes, your Honor.

15 Q I'm sorry; Mr. Flannelly.

16 MR. GLASER: I have, too, your Honor.

17 THE COURT: Thank you, Mr. Glaser.

18 BY THE COURT:

19 Q Mr. Flannelly, would you like any more time to
20 think about your plea or discuss any aspect of your case
21 or plea? If you have any questions, now is the time to
22 talk with Mr. Glaser.

23 A No, your Honor.

24 Q Are you prepared to enter a plea at this time,
25 Mr. Flannelly?

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1 A Yes, your Honor.

2 Q Mr. Flannelly, how do you plead to the one-
3 count Criminal Information, charging you with making
4 false statements as to records required to be kept by a
5 licensed firearms dealer, a violation of 18 United
6 States Code Section 924(a)(1)(A)? How do you plead to
7 that charge?

8 A Guilty, your Honor.

9 Q Mr. Flannelly, did you as charged in the one-
10 count Indictment, on or about June 8 of 2005, in the
11 Eastern District of North Carolina, knowingly make a
12 false statement with respect to information required by
13 Chapter 44 of Title 18, to be kept by federally licensed
14 firearms dealers, that is, that you falsely represented
15 yourself to be the purchaser of a Glock 19 handgun, when
16 in fact, as you well knew, you were not the purchaser of
17 that firearm. Did you do those things?

18 A I did, your Honor.

19 Q And you're sure about that?

20 A Absolutely, your Honor.

21 Q All right. Thank you. Please be seated.

22 THE COURT: All right, Mr. Goulian, I'll be
23 glad to hear from you as to what the United States could
24 likely prove were Mr. Flannelly's case to go to trial.

25 MR. GOULIAN: Yes, your Honor. The

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1 Government's evidence would show Mr. Flannelly is the
2 Vice President of Operations for Blackwater Security
3 Company, based in Moyock, in the Eastern District of
4 North Carolina and now known as Xe Services. In March
5 of 2005, the King of Jordan visited Blackwater, and
6 during that visit, he received a gift of -- he and his
7 entourage received a gift of five firearms from
8 Blackwater. Subsequently, on June 8, 2005, and on
9 August 16, 2005, Mr. Flannelly signed an ATF Form 4473,
10 stating that he was the purchaser, or transferee, of two
11 Glock 19 nine-millimeter pistols, when in fact, as he
12 knew, those two pistols had previously been given to the
13 King of Jordan and his entourage.

14 Also, on June 20, 2005, Mr. Flannelly signed
15 an ATF Form 4473 on behalf of Blackwater, as the
16 transferer of a Glock 17 nine-millimeter pistol, which
17 falsely stated that another employee of Blackwater, Ron
18 Slezak, was the purchaser of that firearm, and again, at
19 that time Mr. Flannelly knew that that particular
20 firearm had been gifted to the King of Jordan.

21 THE COURT: Thank you. All right, Mr.
22 Flannelly, if you would, please, rise, and Mr. Glaser.

23 The Court, satisfied with the responses given
24 during this hearing, makes the following findings on the
25 record:

1 It's the finding of this Court in the case of
2 United States of America versus Gary Flannelly, that the
3 Defendant, Mr. Flannelly, is fully competent and capable
4 of entering an informed plea, and his plea of guilty is
5 knowingly and voluntarily made, and is supported by an
6 independent factual basis containing each of the
7 essential elements of the charged offense. Mr.
8 Flannelly, your plea is, therefore, accepted, and you
9 are adjudicated guilty of the one-count Criminal
10 Information against you.

11 Now, Mr. Flannelly, I have conditionally
12 approved the Memorandum of Plea Agreement between you,
13 Mr. Glaser, and the Government. You will be notified in
14 writing of the time, date, and place of your sentencing.
15 I anticipate that will occur in New Bern no sooner than
16 ninety days from today's date, but you will get plenty
17 of advance notice of that.

18 Mr. Glaser, to the extent you have already not
19 done so, if you would contact the United States
20 Probation Office to commence preparation of Mr.
21 Flannelly's pre-sentence report, that will prevent any
22 prejudicial delay in Mr. Flannelly's sentencing.

23 Now I know, Mr. Flannelly, this is your first
24 appearance in the United States District Court. As
25 such, the issue of your pre-sentence release is ripe.

1 Mr. Goulian, what is the Government's position
2 with regard that?

3 MR. GOULIAN: Your Honor, the Government
4 recommends that Mr. Flannelly be released with standard
5 conditions. As far as a travel condition, the
6 Government just requests that no foreign travel,
7 surrender of passport.

8 THE COURT: Okay. Any bond requested?

9 MR. GOULIAN: No, your Honor.

10 THE COURT: Okay. All right. Please have
11 a seat, Mr. Flannelly, Mr. Glaser. Any contact
12 restrictions, Mr. Goulian?

13 MR. GOULIAN: No, your Honor.

14 THE COURT: All right. Any monitoring? I
15 don't believe that seems to be appropriate, but I'll
16 ask.

17 Mr. GOULIAN: No, your Honor.

18 THE COURT: All right, Mr. Glaser -- Mr.
19 Glaser and Mr. Flannelly, it is my intent to release you
20 pending sentencing on the following conditions:

21 That you promise to appear in court as
22 required, and surrender for service of any sentence that
23 might eventually be imposed by the Chief Judge; that you
24 report to your probation officer as directed.

25 Do you have a U.S. Passport? I believe you

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1 do.

2 MR. FLANNELLY: I do, your Honor. I don't have
3 it with me, but I do have one.

4 THE COURT: If you would surrender that
5 within twenty-four hours to the United States Probation
6 Office.

7 Make no efforts to obtain any passport or
8 documentation that would allow you to leave the
9 continental United States. In fact, I'm restricting
10 your travel to the continental United States unless you
11 obtain the prior permission of your supervised --
12 supervising probation officer.

13 I direct that you refrain from possessing any
14 firearms, destructive devices, or dangerous weapons. If
15 you have any firearm -- do you have any firearms in your
16 possession now?

17 MR. FLANNELLY: Not anymore, your Honor,
18 no.

19 THE COURT: Okay. To the extent you find
20 that you do, if you would immediately transfer those to
21 a lawful holder to be kept pending your sentencing. You
22 would notify Mr. Glaser of that, and Mr. Glaser inform
23 the Probation Office of that. It is important that you
24 don't possess any firearms during this interim time.

25 Refrain from excessive use of alcohol or

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1 refrain from any use of an illegal drug or narcotic
2 substance; submit to drug testing as deemed advisable by
3 your probation officer; participate in any inpatient or
4 outpatient substance abuse therapy deemed advisable by
5 your probation officer. There's no indication of that,
6 but those are standard conditions I impose in every
7 case.

8 Immediately notify your probation officer of
9 any kind contact with law enforcement, including even a
10 routine traffic stop.

11 I am directing, as I do in all cases, that you
12 submit to a warrantless search by your probation
13 officer, or other law enforcement officers, with the
14 prior approval of the supervising probation officer, of
15 your person, property and abode, including your
16 residence, as well as any vehicle in which you are the
17 driver or passenger, to determine compliance with the
18 conditions of your release.

19 Mr. Goulian, does the Government seek any
20 further conditions?

21 MR. GOULIAN: No, your Honor.

22 THE COURT: And, again, the Government does
23 not request any appearance bond; is that correct?

24 MR. GOULIAN: That's correct, your Honor.

25 THE COURT: All right, Mr. Glaser, do any

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1 of those conditions cause Mr. Flannelly any major
2 heartburn?

3 MR. GOULIAN: No, your Honor.

4 THE COURT: All right. I'm going to hand
5 these down for your review and Mr. Flannelly's
6 signature.

7 MR. GLASER: May I approach, your Honor?

8 THE COURT: Yes, please, Mr. Glaser.

9 MR. GLASER: Thank you.

10 THE COURT: All right, Mr. Flannelly, do
11 you understand and agree to abide by each and every one
12 of those conditions?

13 MR. FLANNELLY: I do, your Honor.

14 THE COURT: All right. If you have any
15 questions concerning those conditions, obviously,
16 contact Mr. Glaser, your attorney. As I like to tell
17 people, there's very little -- actually, I'll probably
18 tell you, there's no forgiveness here. There is
19 permission. So, if anything comes up that you have a
20 question about, you're well advised to contact Mr.
21 Glaser or your supervising probation officer, because if
22 you come back in front of me, my policy is any
23 violations, regardless of the nature of the offense, and
24 the Government's position, any violation will result in
25 you being detained pending sentencing, and so just use

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1 your good common sense on that.

2 MR. FLANNELLY: I understand, your Honor.

3 THE COURT: All right, Mr. Glaser, is there
4 anything further on behalf of Mr. Flannelly today?

5 MR. GLASER: No, your Honor.

6 THE COURT: Mr. Goulian, on behalf of the
7 United States?

8 MR. GOULIAN: No, your Honor.

9 THE COURT: All right, Mr. Flannelly, that
10 will conclude your arraignment. The Court has accepted
11 your "guilty" plea to the one-count Criminal
12 Information. Order that you be released on the
13 conditions set by the Court pending sentencing in front
14 of the Chief Judge, after processing by the Marshal
15 Service and Probation Office. Good luck to you, sir.

16 MR. FLANNELLY: Thank you, your Honor.

17 (The proceedings were concluded at 2:16 p.m.)

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19 END OF TRANSCRIPT

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C E R T I F I C A T E

This is to certify that the foregoing transcript of proceedings taken at the criminal session of United States District Court is a true and accurate transcription of the proceedings taken and transcribed by me.

This is the 6th day of December, 2011.



Rebecca L. Capps